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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-91

R. W. JONES, SR., *et al.*,

*Petitioners,*

v.

CHARLES T. WOLF, *et al.*,

*Respondents.*

BRIEF FOR  
THE PRESBYTERIAN CHURCH IN THE UNITED STATES  
AS AMICUS CURIAE IN SUPPORT OF PETITIONERS

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**INTEREST OF THE PRESBYTERIAN CHURCH IN  
THE UNITED STATES**

The Presbyterian Church in the United States (hereafter PCUS) is the general church or denomination of which the Vineville Presbyterian Church of Macon, Georgia, was an integral part at the time of the congregational schism into two factions, each claiming to be the "true congregation" of the Vineville Presbyterian Church and entitled to the exclusive use and control of the church property. The Court below refused to recognize the authority of the PCUS church courts in determining which faction constituted the "true congregation." Instead, the Georgia Court imposed its own form of church government (majority vote of local congregation) and permitted the dissident faction to secede from the general

church, taking with it the church property.

It is submitted that the decision below violates the requirements of the First Amendment of the Constitution of the United States insofar as it abrogates the decision of an hierarchical church court properly exercising ecclesiastical jurisdiction. By taking the beneficial use and control of the church property from those who remain in PCUS and continue to be recognized as the PCUS congregation by the courts of the general church, the decision below also violates the due process clause of the Fourteenth Amendment.

The principle announced by this Court in *Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1872) and most recently confirmed in *Serbian Eastern Orthodox Diocese v. Milivojevic*, 426 U.S. 696 (1976) requiring civil courts to defer to ecclesiastical authority as the basis of determining intrachurch disputes affecting property rights in hierarchical churches would appear to be controlling in the instant case. However, the refusal of the Georgia Court to recognize and apply this principle is evidence of the confusion and conflict which continues to exist in the area of such property disputes.

It is of extreme importance to PCUS and to other religious denominations having hierarchical forms of church government that this Court settle once and for all the proper basis for interpreting constitutional rules applicable to property disputes in these denominations. Unless this is done, litigation resulting in contradictory rulings concerning the authority, powers and jurisdiction of the hierarchical churches will continue to plague these churches to the particular detriment of their local congregations and individual members.

This Amicus brief is being filed with the consent of all parties (letters on file with the Clerk of the Court).

#### ARGUMENT

Prior to 1970, the rule of action uniformly followed by civil courts in this country in property disputes within hierarchical churches was that if no express trust were controlling,

the civil courts were to defer to the decision of the highest applicable ecclesiastical authority. In the case of *Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1872) which involved a property dispute within a hierarchical church (Presbyterian) this Court described the rule as follows:

It is the case of property acquired in any of the usual modes for general use of a religious congregation which is itself part of a large and general organization of some religious denomination, with which it is more or less intimately connected by religious views and ecclesiastical government.

In this class of cases we think the rule of action which should govern the civil courts, founded in a broad and sound view of the relations of church and state under our system of laws, and supported by a preponderating weight of judicial authority is, that, whenever the question of discipline, or of faith, or of ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them. (pages 726 and 727)

The principles applied in *Watson v. Jones* were reaffirmed by this Court in *Kedroff v. Saint Nicholas Cathedral*, 344 U.S. 94 (1952) and again in *Kreshik v. Saint Nicholas Cathedral*, 363 U.S. 190 (1960), and were rather uniformly followed by the various state tribunals. In the case of *St. John's Presbytery v. Central Presbyterian Church*, 102 So.2d 714 (Fla. 1958) the Florida Supreme Court observed:

This is an abounding array of authorities but they all treat some phase of litigation growing out of church schisms in which both factions lay claim to the church property. When the church is representative, republican or episcopal in government, the au-



thorities uniformly hold the church property whether held by an express or an implied trust cannot be diverted from the parent church by those who withdraw from it and form a separate denomination. It matters not whether those who withdraw from the mother church constitute a majority or a minority faction, the church property remains with the mother church. There are exceptions to this rule when the schism occurs in a church whose government is congregational in form like the Baptist or Congregational denominations but in churches bound together by associated ecclesiastical government when the local church is obedient to a larger or more important religious organization and is governed by it, such as the Presbyterian, Catholic, Episcopal, Methodist and Lutheran, I have found no exception to this rule. *They could not function under any other rule.* (Emphasis supplied)

Thus the rule of deference to ecclesiastical authority in matters affecting property disputes in hierarchical churches appeared to be well settled. However, in 1969, in *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969), a case also involving a PCUS church property dispute in the State of Georgia, this Court by dictum made reference to "neutral principles of law, developed for use in all property disputes, which can be applied without 'establishing' churches to which property is awarded."<sup>1</sup>

This reference in the *Hull* opinion to "neutral principles of law" as further expounded by Mr. Justice Brennan in his

<sup>1</sup>The issue in the *Hull* case was the "departure from doctrine" theory which had been applied by the Georgia Court and which this Court struck down as being in violation of the First Amendment. In the *Hull* case, this Court was not concerned with deference to ecclesiastical authority and there is nothing in the Court's decision which in any way controverts or changes principles and rules of actions described in *Watson v. Jones* as affirmed in the *Kedroff* and *Kreshik* decisions.

concurring opinion in *Maryland and Virginia Eldership v. Church of God*, 396 U.S. 367 (1970) and coupled with the Court's denial of a second petition for a writ of certiorari in *Hull* (reported 369 U.S. 1041 (1970)) was soon seized upon by dissenting church factions as justification of their claims for independence and autonomy. Under the rubric of "neutral principles of law" and "formal title" doctrines, these dissident groups are claiming the right by majority vote in the local congregation to secede from the general denomination taking with them the church properties and completely ignoring all church authority and decisions of ecclesiastical courts.

The status of the law with respect to church property disputes in hierarchical churches which was so well developed and settled prior to the *Hull* and *Eldership* cases is now in a state of confusion and there is conflict in the lower courts as to the proper application of the constitutional requirements.

The damages being suffered by hierarchical churches as a result of the present unsettled state of the law is severe. PCUS is an example. PCUS is a church with approximately 870,000 members, with 4,010 local congregations in seventeen states and the District of Columbia.<sup>2</sup> Since 1970, there have been no less than 295 instances of withdrawals or attempted withdrawals by dissident local factions claiming by majority vote to be the "true congregation" of the particular local church and under this "neutral principle of law" entitled to the exclusive possession and control of the church property. Fourteen of these instances, including the case now before this Court, involve PCUS congregations in the State of Georgia.

Of the 295 instances of withdrawal or attempted with-

<sup>2</sup>Statistical data on PCUS members and congregations cited herein is taken from Minutes of the 118th General Assembly Presbyterian Church in the United States, June 9-16, 1978.

drawal from the denomination, 130 involved churches which were, or are, the only PCUS church in the community. In these cases the damage to the denominational church and to the local congregational members who wish to remain loyal is particularly severe. The loyal members are deprived of the church property and must make provisions for a new place of worship. Quite often the expense is too great and the loyal congregation is forced to dissolve, leaving the denominational church with no effective church witness in the community.

Many PCUS congregations are relatively small in terms of membership. According to PCUS records for the year 1976 approximately 47 percent of its congregations had less than one hundred members and 12 percent had less than twenty-five members. The statistical records for the year 1977 show that 1,722 congregations, or about 43 percent, have one hundred or less members and 383, or about 9.5 percent, have twenty-five or less members.<sup>3</sup> Eighty of the congregations with one hundred or less members are in Georgia. In jurisdictions where the civil tribunals elect not to follow the traditional rule of deference to ecclesiastical authority but instead a "neutral principle" rule of majority vote, the probabilities of abuse are much greater in the smaller congregations. In the congregations of one hundred or less it is not too difficult for a very few people to gain control of a majority of the membership. It is even possible for a small group to join the church for the very purpose of taking the church out of the denomination or for the purpose of taking the church property for personal and private gain.

The issues which divide church groups are varied and certainly as numerous as the number of existing denominations and religious sects. Some issues are antiquated, extending back over the centuries and their origination can only be traced in church history records. Other issues are merely

<sup>3</sup>The decrease in percentage is a result primarily of smaller churches being taken out of the denomination rather than an increase in the size of membership.

reflections of changing mores and attitudes in our modern society. In recent years, for example, many of the issues dividing local congregations and national churches have been colored with strong economic, political, racial and civil rights overtones. Typical is the list of grievances against PCUS cited by the dissident faction in the *Hull* case. As reported by the Supreme Court of Georgia at 159 S.E.2d 690, page 692, the dissidents objected, among other things, to the ordaining of women as ministers and ruling elders, and pronouncements about civil, economic and social matters which the dissidents considered too liberal.

When such actions, pronouncements or policies cause dissent and result in a division of the church members, the basis for adjudicating and determining such intrachurch disputes depends entirely on the form of a particular church's government and such issues are totally beyond the realm of any civil tribunal to determine. In this vein, this Court more than once has instructed that:

In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. . . . All who unite themselves to such a body [the general church] do so with an implied consent to [its] government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them [sic] reversed. It is of the essence of these religious unions, and of their right to establish tribunals for the decision of

questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for. (*Watson v. Jones*, 80 U.S. (13 Wall) 679 at 728, *quoted in Presbyterian Church v. Mary E. B. Hull Memorial Presbyterian Church*, 393 U.S. 440 at 446, and in *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696 at 711.)

PCUS is a church with a connectional or hierarchical form of government and, in the words of the *Watson* Court quoted above, PCUS has created "tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association."

The constitution of the PCUS consists of its doctrinal symbols, embraced in the Confession of Faith and the Larger and Shorter Catechisms, together with *The Book of Church Order*, which comprises the Form of Government, the Rules of Discipline, and the Directory for Worship.

*The Book of Church Order*<sup>4</sup> §13-1 defines the form of government,

... by representative assemblies, composed exclusively of Presbyters or Elders. These assemblies, called Church courts, in the order of their regular gradation, are: Church Sessions, Presbyteries, Synods, and the General Assembly. . . .

The jurisdiction of the church courts is described in §14-5:

<sup>4</sup>All citations to *The Book of Church Order* refer to the *Fourteenth printing* 1972 edition.

... The Church Session exercises jurisdiction over a single church; the Presbytery over what is common to the Ministers, Sessions, and churches within a prescribed district; the Synod over what belongs in common to three or more Presbyteries, and their Ministers, Sessions and churches; and the General Assembly over such matters as concern the whole Church. . . . Although each court exercises exclusive original jurisdiction over all matters specially belonging to it, the lower courts are subject to the review and control of the higher courts, in regular gradation. Disputed matters of doctrine and order, arising in lower courts, may be brought to higher courts for decision.

These courts are not separate and independent tribunals. They have a mutual relation, and every act of jurisdiction is the act of the whole Church performed by it through the appropriate church court.

The powers of the Presbytery, including those respecting individual churches, are enumerated in §16-7:

...

(3) To review the records of Sessions, redress whatever they may have done contrary to order, and take effectual care that they observe the Constitution of the Church.

(4) To see that the lawful injunctions of the higher courts are obeyed.

...

(6) To unite or divide churches, at the request of the members thereof.



- (7) To organize new churches.
- (8) To receive and dismiss churches.
- (9) To dissolve churches.
- (10) To control the location of new churches and of churches desiring to move to new locations.

...

§6-2 deals with the property of an incorporated church.

If a particular church is incorporated, the provisions of its charter and bylaws must always be in accord with the Constitution of the Presbyterian Church in the United States. If the congregation is an incorporated body, all the communing members on the active roll of that church shall be members of the corporation. The officers of the corporation, whether they be given the title "Trustee" or some other title, shall be elected from among the members of the corporation in a regularly constituted congregational meeting. The powers and duties of such officers must not infringe upon the powers and duties of the Session or of the Board of Deacons. All funds collected for the support and expense of the church shall be controlled and disbursed by the Session and the Board of Deacons as their relative authorities may from time to time be established and defined. To the officers of the corporation may be given by the charter and bylaws of the corporation any or all of the following responsibilities: The buying, selling, and mortgaging of the property for the church, the acquiring and conveying title to such property, the holding and defending title to the same, the managing of any permanent special funds entrusted to them for the furtherance of the purposes of the

church, provided that such duties do not infringe upon the powers and duties of the Session or of the Board of Deacons. In buying, selling, and mortgaging real property such officers shall act solely under the authority of the corporation, granted in a duly constituted meeting of the corporation.

From the foregoing provisions, it can be seen that whenever a division or schism occurs in a PCUS church, jurisdiction to determine the issues which have caused the dispute rests primarily with the Presbytery. Whenever factions within a congregation contend that each is the "true church," the decision is to be made by the Presbytery subject to appeal to the higher courts. §6-2 provides that when a church is incorporated, the corporation and its officers shall acquire, hold and dispose of the property for "*the church*." Thus, when the question arises as to who is *the church* for purposes respecting church property, it is still the prerogative of the Presbytery to decide.

The General Assembly of the PCUS by declaratory statements interpreting the church's constitutional provisions has left no doubt as to the position of the denomination with respect to ownership, use and control of church property. The following are pertinent excerpts from the statement adopted by the 1971 General Assembly:

The beneficial ownership of the property of a particular church of the Presbyterian Church in the United States is in the congregation of such church and title may properly be held in any form, corporate or otherwise, consistent with the provisions of civil law in the jurisdiction in which such property is situated. The congregation, with respect to such property, may properly exercise any privilege of ownership possessed by property owners in such jurisdiction. *In every instance nothing in the manner of*

*tenure of such property or the use thereof shall be in violation of the obligation of such congregation to the body of the Presbyterian Church in the United States as established by the Constitution of such Church. (Emphasis added.)*

Disposition of the property of a particular church rests in the will of the congregation of that church. *The congregation is that body of persons recognized as members of that particular church by the respective courts of the church. (Assembly's Digest, p. 76) (Emphasis added.)*

In 1967 the Presbytery of Potomac overtured the General Assembly to make clear the Presbyterian Church, U.S. position regarding the ownership of church property. The General Assembly reaffirmed its 1953 statement and responded: "The Book of Church Order, when supplemented by the declaratory statement of the General Assembly of 1953, is sufficiently clear. (Minutes, 1967, p. 127).

The Book of Church Order provides that Presbytery has the authority to receive and dismiss churches. Appellate procedure is outlined in Chapter 14 of the Form of Government and Part V of the Rules of Discipline.

It should be pointed out that Section 4-(2) provides that upon organization, the members of the congregation of a Presbyterian church shall enter into a covenant and with uplifted hand ". . . solemnly promise and covenant that they will walk together as an organized church, on the principles of faith and order of the Presbyterian Church in the United States, . . . ." (Emphasis added.)

All persons who subsequently enroll themselves as communing members on profession of faith of the particular church must first agree to submit themselves to the government and discipline of the Church.

(Section 210-5(5). Directory for the Worship and Work of the Church.)

Ministers and other officers before ordination approve the government and discipline of the Presbyterian Church in the United States, and promise subjection to their brethren in the Lord. (Form of Government, Sections 29-3, 27-6.)

When any Minister, other officer or communing member feels that he can no longer in good conscience remain a part of the Presbyterian Church in the United States, the Book of Church Order provides an honorable and orderly procedure for separating himself from it. (Rules of Discipline, Chapter 11.)

Section 14-5 of the Book of Church Order sets forth the sphere of action of each Church court and their interrelations to each other: "These courts are not separate and independent tribunals. They have a mutual relation, and every act of jurisdiction is the act of the whole Church performed by it through the appropriate Church court."

Section 16-7 of the Book of Church Order provides that Presbytery has the power to receive, dismiss, ordain, install, remove and judge ministers, to review the records of the Sessions, redress whatever they may have done contrary to order, and take effectual care that they observe the Constitution of the Church. The Presbytery further has the power to establish the pastoral relation and to dissolve it at the request of one or both of the parties or where the interest of religion imperatively demands it and, further, the Presbytery has the power and authority to see that the lawful injunctions of the higher courts are obeyed, to condemn erroneous opinions which injure the purity or peace of the church, to visit churches for the purpose of inquiring into and redressing evils that may have arisen in them, to unite

or divide churches at the request of the members, to form and receive new churches, to dissolve churches and in general to order whatever pertains to the spiritual welfare of the churches under its care. Further, the Presbytery has the power and authority to appoint commissioners to the General Assembly of the Church and to propose to the Synod or to the General Assembly such measures as may be of common advantage to the whole Church.

It takes more than a name to become a Presbyterian Church, U.S. It takes more than to profess the same faith as the Presbyterian Church, U.S. It takes a profession of that faith and *subjection to the government of that Church to make a Presbyterian Church, U.S.*

*A Presbyterian congregation, with its officers, pastor, elders and deacons, is a complete organization in itself, but it is not independent. (preface to the Form of Government, III, 1, 5.) It is a part of an extended whole, living under the same ecclesiastical constitution, and therefore subject to the inspection and control of the Presbytery, whose business is to see that the standards of doctrine and rules of discipline are adhered to by the particular churches under its care. It is the court of review and control, over all the sessions of the particular churches within its bounds. To the Presbytery are superadded the higher judicatories of Synods and General Assemblies, as the means of preserving the standards of doctrine and discipline on a more extended territorial scale.*

Such has been the organization of the Presbyterian Church in Scotland, from the time of John Knox to this date, and has been substantially followed by the Presbyterian Church in England and the United States.

The foregoing represents the Presbyterian Church, U.S. position on church property. This position is subject, however, to the civil laws of the State where the property is situated. Generally, however, the civil courts concluded that a congregation belonging to a religious denomination and subject to the constitution, faith and doctrines thereof, cannot use its property for a purpose which violates the relationship of the congregation to the denomination. (minutes of 111th General Assembly, Presbyterian Church in the United States, p. 171-172.)

In the instant case, the Georgia Court found that title to the Vineville Presbyterian Church was acquired by various conveyances all being to named trustees of the Vineville Presbyterian Church or simply to the Vineville Presbyterian Church and that the Vineville Presbyterian Church was incorporated in 1915. The Court also found that at the time of the schism within the local congregation the Vineville Presbyterian Church was a member unit of the Augusta-Macon Presbytery of PCUS. The Court also found that the Augusta-Macon Presbytery had declared the petitioners and their group the true congregation of the Vineville Presbyterian Church and had withdrawn from the respondents and their group all authority derived from PCUS including all their ecclesiastical privileges and rights of property of the congregation. These findings were never controverted.

Notwithstanding the foregoing, the Court then concluded as a matter of law that legal title to all the church property of the Vineville Presbyterian Church is vested in the local church represented by the respondents (the majority faction).

On appeal the Georgia Supreme Court affirmed the decision of the trial court, again refusing to attach any significance to the determination made by the Augusta-Macon Presbytery. The reason as stated in the Court's opinion was:



Since *Presbyterian Church in the United States et al. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church et al.*, 393 US 440 (89 SC 601, 21 LE2d 658) (1969), civil courts have been forbidden, under First Amendment principles as applied to the states by the Fourteenth Amendment, from resolving church property disputes on questions of an ecclesiastical nature. . . . The decision of the Supreme Court of the United States stated there are neutral principles of law, developed for use in all property disputes, which can be applied in resolving church property disputes without resolving underlying controversies over religious doctrine. (See Appendix to Petition for Writ of Certiorari, pages 12a and 13a.)

We submit that the decisions below constitute an illogical and incorrect application of the law. The fact that title to the subject property was vested in the Vineville Presbyterian Church is not the issue in this case. The issue is one of identification, i.e. which of the two contending factions constitutes the congregation of the Vineville Presbyterian Church. The identification was made by the proper church court in accordance with the form of government under which the Vineville Presbyterian Church was originally organized and at all times continued to exist and function as an integral part until the unfortunate occurrence of the congregational schism.

Recognition of the church court decision by the Courts below would have been a proper application of the teachings of the *Watson*, *Hull* and *Milivojeovich* decisions and would not have required any investigation into or determination of ecclesiastical questions by the civil tribunals. *Accord*, *Adickes v. Adkins*, 264 S. C. 394, 215 S.E.2d 442, cert. denied, 423 U.S. 913 (1975) and *Presbytery of the Covenant v. First Presbyterian Church of Paris*, 552 S.W.2d 865 (Tex. Cir. App. 1977), *Mills v. Baldwin*, 362 So.2d 2 (Fla. 1978).

Instead the Georgia Courts have imposed their own form of government and procedure for determination of the ecclesiastical question of who constitutes the church. The form which these courts have established is government based on majority vote of persons claiming to be members of the local church. This is not the Presbyterian form of government and what the Courts below have done amounts to a violation of the First and Fourteenth Amendments. Mr. Justice Frankfurter said it very well in his concurring opinion in *Kedroff v. Saint Nicholas Cathedral*, 344 U.S. 94, 122: "[I]t is not a function of civil government under our constitutional system to assure rule to any religious body by a counting of heads."

Nothing in support of the decision below is added by the Georgia Court's determination that "[t]he corporation charter [of the Vineville Presbyterian Church] of April 29, 1915, and subsequent revivals, fail to show any interest in the corporation other than that of the congregation." This conclusion standing alone is irrelevant to the issue presented. The real issue is the *identification* of the congregation. As one legal scholar has observed:

. . . The church is the religious society or unincorporated association; and the corporation is the agency of the society having as its only purpose serving the interests of the church in holding property and facilitating the property and financial affairs of the church. In legal concept, the relationship of the church to its corporation is as master to servant, principal to agent, or beneficiary to trustee.

It seems fair to say that to look to "formal title" without more to determine all interests in property thus held, is to disregard substance and reality. As the words used to describe the theory denote, it is to resort to form rather than substance. . . . (McKeag, *The Problem of Resolving Property Disputes in Hierarchical Churches*, 48 Pa. Bar Ass'n Q. 281, 288 (1977).)



In the case of *Adickes v. Adkins*, 264 S.C. 394, 215 S.E.2d 442, *cert. denied*, 423 U.S. 913 (1975), the appellants (dissenting majority faction) contended that the decision of the trial court in favor of the loyal minority "should be reversed because 'neutral principles of law' require that the property in question should be in the possession and control of the appellants representing a majority of the members of the First Presbyterian Church of Rock Hill, an eleemosynary corporation." In support of this contention the appellants cited *Presbyterian Church v. Mary E. B. Hull Memorial Presbyterian Church*, *supra*. In disposing of this contention the South Carolina Supreme Court correctly said:

... A review of that case convinces us that it is of no comfort to the appellants here and certainly it does not require a result contrary to *Bramlett*.<sup>5</sup> By a determination of this case, this Court exercises no role in determining ecclesiastical questions. We merely settle a dispute on the question of identity, which in turn necessarily settles a dispute involving the control of property. . . .

In response to further contentions that the order of the trial court violated rights of the dissident majority faction guaranteed by the Establishment and Due Process Clauses of the State and Federal Constitutions, the South Carolina Supreme Court in the *Adickes* case said:

... The appellants voluntarily associated themselves with the First Presbyterian Church of Rock Hill and became subject to the discipline and government of the Presbyterian Church in the United States. They voluntarily severed their connection, and when they did they forfeited any right to the use and possession of the property of that church under the long established law of the church and of South Carolina. Due

<sup>5</sup>*Bramlett v. Young*, 229 S.C. 519, 93 S.E.2d 873 (1956)

process has not been denied the appellants. By joining the First Presbyterian Church of Rock Hill the members did not acquire such an interest in the property that they are entitled to take with them upon seceding. The property belonged to the First Presbyterian Church of Rock Hill before the members joined the church, and it belongs to the same after they have withdrawn. They simply are not now a part of that church. . . .

The petitioners in the case now before the Court argue that the so-called doctrine of "neutral principles" is applicable *only if* no church adjudicatory procedures are available or have been followed and that civil courts should never turn to "neutral principles" if the issue has already been determined (as in the instant case) by an ecclesiastical court exercising proper jurisdiction. We entirely adopt and agree with this position. Further, we submit that deference to decisions of the highest ecclesiastical tribunal within a church of hierarchical polity is in essence the application of "neutral principles" of law. And we strongly contend that this Court's decisions beginning with *Watson v. Jones*, *supra*, and culminating in *Serbian Eastern Orthodox Diocese v. Milivojevich*, *supra*, require that civil courts give binding deference to determinations by church courts within hierarchical churches.

We have attempted in this brief to demonstrate something of the extent and nature of the serious legal problems inflicted upon PCUS as a national church and upon its local churches and individual members as a result of the present confusion and conflict among the lower courts. As the petitioners quite correctly have pointed out, these problems are not peculiar to PCUS but also involve the other hierarchical churches and their millions of members. It is of utmost importance to these churches that this Court act immediately to resolve this confusion and conflict, clarifying the constitutional requirements which the civil courts must follow in the adjudication of property disputes within hierarchical churches.

**CONCLUSION**

For the reasons set forth above, we respectfully request the Court to reverse the decision below.

Respectfully submitted,  
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